

875—9.15(88) Filing of complaint for discrimination.

9.15(1) A complaint of Iowa Code section 88.9(3) discrimination may be filed by the employee, or by a representative authorized to do so on the employee's behalf. No particular form of complaint is required. A complaint should be filed with the commissioner of labor.

9.15(2) Iowa Code section 88.9(3) provides that an employee who believes discriminatory actions have occurred in violation of section 88.9(3) "may, within 30 days after such violation occurs," file a complaint with the commissioner. The major purpose of the 30-day period in this provision is to allow the commissioner to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action or where the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances which do not justify tolling of the 30-day period. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.